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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )

Definition of Markets for Purposes )  
of the Cable Television Mandatory )  
Television Broadcast Signal Carriage )  
Rules )

CS Docket No. 95-178

TO: The Commission

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COMMENTS OF PRESS BROADCASTING COMPANY, INC.

1. Press Broadcasting Company, Inc. ("Press") hereby submits its Comments in response to the Notice of Proposed Rule Making ("NPRM"), FCC 95-489, released December 8, 1995, in the above-captioned proceeding. In the NPRM, the Commission has proposed to continue to use the Arbitron 1991-92 Television ADI Market Guide to define market areas relevant to certain regulatory programs, including, inter alia, the implementation of the mandatory cable carriage rules. As set forth below, Press disagrees with the Commission's proposed approach.

2. Press is the licensee of Station WKCF(TV), Clermont, Florida, which serves the Orlando-Daytona Beach-Melbourne-Cocoa-Clermont market. In connection with that station, Press has had first-hand experience with the problems presented by the Commission's attempted application of a static definition to a particular dynamic factor in an generally dynamic setting. See, e.g., Request for Ruling by Press Television Corporation Concerning Applicability of Section 73.658(m) of the Commission's Rules in the Orlando-Daytona Beach-Melbourne-Cocoa Television

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Market, 4 FCC Rcd 8799 (1989), recon. denied, 6 FCC Rcd 6563 (1991); Press Television Corporation, 7 FCC Rcd 7218 (1992); Press Broadcasting Company, Inc., 8 FCC Rcd 3667 (1993). Based on that experience, Press strongly believes that the Commission's proposed approach herein is misguided.

3. The primary problem with the Commission's proposal is that it would effectively ossify market definitions according to how an organization which has since abandoned the field determined those definitions to be four-five years ago. While the Commission is technically correct that that approach would "provid[e] stability" (NPRM, ¶7) in some respects, Press respectfully submits that stability is not necessarily desirable or advantageous in this particular respect. To the contrary, the market definitions at issue here are by their very nature in a near-constant state of flux. That flux is the result of numerous, obvious factors. These include the development, implementation and public acceptance of new technologies for the distribution of video programming. They include the easy personal mobility which is characteristic of this country, mobility which leads to constantly changing demographic patterns throughout the country.

4. In other words, the Commission is proposing to define in 1991-1992 terms markets which in many cases have probably already changed significantly, and which are certainly going to continue to change. What sense does it make to impose such a static definition? Would it make sense to define "car" in terms

of a "Model-T"? Would it make sense to define "computer" in terms of an abacus?

5. Press recognizes that the Commission's proposal contemplates some on-going adjustments to the definitions through the rule making process. With all due respect, such an approach is less than effective. The rule making process would normally take more than a year from the filing of a petition for rule making to the issuance of a report and order, even if there were no opposition or appeals. As a result, even if the Commission were to amend its rules with respect to certain markets, such amendments would already be more than a year out-of-date upon their adoption. This hardly seems an effective way of assuring reasonably current and accurate market definitions. <sup>1/</sup>

6. Press submits that it would clearly be in the public interest to assure that the Commission's definition of markets tracks as closely and as contemporaneously as possible the definition which is generally used by the affected industries. As the Commission acknowledges in the NPRM, there is at least one company -- the A.C. Nielsen Company -- which engages in, inter alia, the definition of television markets. Nielsen's data are generally accepted as reasonably reliable in virtually all


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<sup>1/</sup> Moreover, from a practical point of view, reliance on the rule making process will force the Commission to dedicate its own staff and resources to these rule making efforts. Why would the Commission want to utilize its scarce resources in such efforts, which are guaranteed to produce market definitions which are at least a year out-of-date upon their adoption -- especially when the private sector is already producing reliable, up-to-date market definitions which are readily available to the Commission and the affected industries?

sectors of the video marketplace. As far as Press is aware, the procedures and analyses utilized by Nielsen in its market-definition process are no less reliable than were those of Arbitron. Certainly, the Commission does not suggest in the NPRM that there is anything inherently unreliable in Nielsen's methodology or conclusions.

7. In Press' view, it would make much more sense for the Commission to rely on the up-to-date, generally-available, widely-accepted data and definitions of Nielsen than to rely on an already-out-of-date (by four years or more) set of definitions which could be "corrected" only through the cumbersome, years-long rule making process. Why dedicate valuable Commission resources to the manufacture of a product which will perforce be inferior to what is already available in the marketplace?

Respectfully submitted,

  
/s/ Harry F. Cole  
Harry F. Cole

Bechtel & Cole, Chartered  
1901 L Street, N.W.  
Suite 250  
Washington, D.C. 20036  
(202) 833-4190

Counsel for Press Broadcasting  
Company, Inc.

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